

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 116

SENATE BILL NO. 201

By Bunch, Ford, McNally, Tracy, Faulk, Overbey, Yager

Substituted for: House Bill No. 587

By Coleman, Watson, Ferguson, Jim Cobb, Harry Brooks, Ty Cobb

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 13, relative to the officials authorized to petition for the disposition of confiscated weapons.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-1317, is amended by deleting the section in its entirety and substituting instead the following:

(a) Any weapon, except those covered by subsection (h), that is possessed, used or sold in violation of the law shall be confiscated by a law enforcement officer and declared to be contraband by a court of record exercising criminal jurisdiction. The sheriff or chief of police for the jurisdiction where the weapon was confiscated may petition the court for permission to dispose of the weapon in accordance with this section. If the weapon was confiscated by a judicial district drug task force, the director of the task force where the weapon was confiscated may petition the court for disposal of the weapon in accordance with this section. If the weapon was confiscated by the Department of Safety, the Commissioner of Safety may petition the court for disposal of the weapon in accordance with this section. If the weapon was confiscated by the Tennessee Bureau of Investigation, the director may petition the court for disposal of the weapon in accordance with this section.

(b) Any weapon declared contraband shall be sold in a public sale, destroyed, or used for legitimate law enforcement purposes, at the discretion of the court, by written order.

(c) If the weapon was confiscated by a sheriff, other local law enforcement agency, or a judicial district drug task force and the court orders the weapon to be sold:

(1) It shall be sold at a public auction not later than six (6) months from the date of the court order. The sale shall be conducted by the sheriff of the county or the chief of police of the municipality in which it was seized;

(2) The proceeds from the sale shall go into the county or municipal general fund unless the weapon was confiscated by a judicial

district drug task force in which case the funds are deposited for the benefit of the task force;

(3) The sale shall be advertised in a daily or weekly newspaper circulated within the county. The advertisement shall run for not less than three (3) editions and not less than thirty (30) days prior to the sale; and

(4) If required by federal or state law, the sale can be conducted under contract with a licensed firearm dealer, whose commission shall not exceed twenty percent (20%) of the gross sales price. The dealer shall not hold an elective or appointed job with the federal, state, county or city government in this state during any stage of the sales contract.

(d) If the weapon was confiscated by the Department of Safety or the Tennessee Bureau of Investigation, and the court orders it to be sold, it shall be turned over to the Department of General Services which shall sell the weapon and dispose of the proceeds of the sale in the same manner as it currently does for other confiscated weapons.

(e) If the court orders the weapon to be destroyed, the Commissioner of Safety or the director of the Tennessee Bureau of Investigation, the sheriff, chief of police, or the director of the seizing judicial district drug task force shall completely destroy, or cause to be destroyed, the weapon by cutting, crushing or melting it within ninety (90) days of receiving the destruction order.

(f) If the court orders the weapon to be retained and used for legitimate law enforcement purposes:

(1) Title to the weapon shall be placed in the law enforcement agency or judicial district drug task force retaining the weapon; and

(2) When the weapon is no longer needed for legitimate law enforcement purposes, it shall be sold or destroyed in accordance with this part.

(g) If the weapon is sold or destroyed, the Commissioner of Safety or the director of the Tennessee Bureau of Investigation, the sheriff, chief of police, or director of the judicial district drug task force shall file an affidavit, as follows, with the court issuing the sale or destruction order:

(1) The affidavit shall be filed within thirty (30) days after the sale or destruction;

(2) The affidavit shall identify the weapon, including any serial number, and shall state the time, date and circumstances of the sale or destruction;

(3) If the weapon has been destroyed, the affidavit shall list the persons who destroyed the weapon and the persons who witnessed the destruction; and

(4) If the weapon has been sold, the affidavit shall list the name and address of the purchaser and the price paid for the weapon.

(h) Notwithstanding any other provisions of this section, no weapon shall be sold, destroyed or retained for law enforcement use in the following circumstances:

(1) A weapon that may be evidence in an official proceeding shall be retained or otherwise preserved in accordance with the rules or practices regulating the preservation of evidence. Any such weapon shall be sold, destroyed or retained for legitimate law enforcement purposes not less than sixty (60) days nor more than one hundred eighty (180) days after the last legal proceeding involving the weapon; or

(2) Any weapon that has been stolen or borrowed from its owner, and the owner was not involved in the offense for which the weapon was confiscated, shall be returned to the owner if permitted by law.

(i) No weapon seized by law enforcement officials or judicial district drug task force members shall be used for any personal or law enforcement purposes, sold or destroyed except in accordance with this section.

(j) A violation of this section is a Class B misdemeanor.

(k) Nothing in this section shall authorize the purchase of any weapon, the possession of which is otherwise prohibited by law.

(l) The Commissioner of Safety, the director of the Tennessee Bureau of Investigation, the executive director of the Tennessee Alcoholic Beverage Commission, the executive head of any municipal or county law enforcement agency, or the director of a judicial district drug task force may petition the criminal court, or the court in the official's county having criminal jurisdiction, for permission to exchange firearms that have previously been properly titled, as specified by this section, to the law enforcement agency or the drug task force for other firearms suitable for use by the law enforcement agency or drug task force. This exchange of firearms is permitted only between the Department of Safety, the director of the Tennessee Bureau of Investigation, the executive director of the Tennessee Alcoholic Beverage Commission, a municipal or county law enforcement agency, or a judicial district drug task force and a licensed and qualified law enforcement firearms dealer.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 20, 2009



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 5th day of May 2009



PHIL BREDESEN, GOVERNOR